

Comptroller of the Currency, Treasury

§ 152.7

(f) *Shareholder voting*—(1) *Proxies*. Unless otherwise provided in the association's charter, at all meetings of shareholders, a shareholder may vote in person or by proxy executed in writing by the shareholder or by a duly authorized attorney in fact. Proxies may be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the shareholder. A proxy may designate as holder a corporation, partnership or company as defined in part 174 of this chapter, or other person. Proxies solicited on behalf of the management shall be voted as directed by the shareholder or, in the absence of such direction, as determined by a majority of the board of directors. No proxy shall be valid more than eleven months from the date of its execution except for a proxy coupled with an interest.

(2) *Shares controlled by association*. Neither treasury shares of its own stock held by the association nor shares held by another corporation, if a majority of the shares entitled to vote for the election of directors of such other corporation are held by the association, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time for purposes of any meeting.

(g) *Nominations and new business submitted by shareholders*. Nominations for directors and new business submitted by shareholders shall be voted upon at the annual meeting if such nominations or new business are submitted in writing and delivered to the secretary of the association at least five days prior to the date of the annual meeting. Ballots bearing the names of all the persons nominated shall be provided for use at the annual meeting.

(h) *Informal action by stockholders*. If the bylaws of the association so provide, any action required to be taken at a meeting of the stockholders, or any other action that may be taken at a meeting of the stockholders, may be taken without a meeting if consent in writing has been given by all the stockholders entitled to vote with respect to the subject matter.

§ 152.7 Board of directors.

(a) *General powers and duties*. The business and affairs of the association

shall be under the direction of its board of directors. The board of directors shall annually elect a chairman of the board from among its members and shall designate the chairman of the board, when present, to preside at its meeting. Directors need not be stockholders unless the bylaws so require.

(b) *Number and term*. The bylaws shall set forth a specific number of directors, not a range. The number of directors shall be not fewer than five nor more than fifteen, unless a higher or lower number has been authorized by the OTS, prior to July 21, 2011 or the OCC. Directors shall be elected for a term of one to three years and until their successors are elected and qualified. If a staggered board is chosen, the directors shall be divided into two or three classes as nearly equal in number as possible and one class shall be elected by ballot annually. In the case of a converting or newly chartered association where all directors shall be elected at the first election of directors, if a staggered board is chosen, the terms shall be staggered in length from one to three years.

(c) *Regular meetings*. A regular meeting of the board of directors shall be held immediately after, and at the same place as, the annual meeting of shareholders. The board of directors shall determine the place, frequency, time and procedure for notice of regular meetings.

(d) *Quorum*. A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting of the board of directors. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless a greater number is prescribed by regulation of the OCC.

(e) *Vacancies*. Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors although less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected to serve only until the next election of directors by the shareholders. Any directorship to be filled by reason of an increase in the number of directors may be filled by election by the board of directors for a

term of office continuing only until the next election of directors by the shareholders.

(f) *Removal or resignation of directors.*

(1) At a meeting of shareholders called expressly for that purpose, any director may be removed only for cause, as defined in §163.39 of this chapter, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors. Associations may provide for procedures regarding resignations in the bylaws.

(2) If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against the removal would be sufficient to elect a director if then cumulatively voted at an election of the class of directors of which such director is a part.

(3) Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the charter or supplemental sections thereto, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

(g) *Executive and other committees.* The board of directors, by resolution adopted by a majority of the full board, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in the resolution or bylaws of the association, shall have and may exercise all of the authority of the board of directors, except no committee shall have the authority of the board of directors with reference to: the declaration of dividends; the amendment of the charter or bylaws of the association; recommending to the stockholders a plan of merger, consolidation, or conversion; the sale, lease, or other disposition of all, or substantially all, of the property and assets of the association otherwise than in the usual and regular course of its business; a voluntary dissolution of the association; a revocation of any of the foregoing; or the approval of a transaction in which any member of the executive committee, directly or indirectly, has any material beneficial interest. The designation of any com-

mittee and the delegation of authority thereto shall not operate to relieve the board of directors, or any director, of any responsibility imposed by law or regulation.

(h) *Notice of special meetings.* Written notice of at least 24 hours regarding any special meeting of the board of directors or of any committee designated thereby shall be given to each director in accordance with the bylaws, although such notice may be waived by the director. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting need be specified in the notice or waiver of notice of such meeting. The bylaws may provide for telephonic participation at a meeting.

(i) *Action without a meeting.* Any action required or permitted to be taken by the board of directors at a meeting may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by all of the directors.

(j) *Presumption of assent.* A director of the association who is present at a meeting of the board of directors at which action on any association matter is taken shall be presumed to have assented to the action taken unless his or her dissent or abstention shall be entered in the minutes of the meeting or unless a written dissent to such action shall be filed with the person acting as the secretary of the meeting before the adjournment thereof or shall be forwarded by registered mail to the secretary of the association within five days after the date on which a copy of the minutes of the meeting is received. Such right to dissent shall not apply to a director who voted in favor of such action.

(k) *Age limitation on directors.* A Federal association may provide a bylaw on age limitation for directors. Bylaws on age limitations must comply with all Federal laws, rules and regulations.